

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

May 17, 2011

In the Matter of C. L. MERIWEATHER, Minor.

No. 300361

Oakland Circuit Court

Family Division

LC No. 10-491977-NA

Before: SAAD, P.J., and JANSEN and K.F. KELLY, JJ.

PER CURIAM.

Respondent appeals the trial court's order that terminated his parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(i), (g), (h), (i), (j), (k)(ii), (m), and (n). For the reasons set forth below, we affirm.

Respondent does not challenge the court's finding that statutory grounds for termination were established by clear and convincing evidence. He appeals only the trial court's ruling that termination of his parental rights is in the best interests of the child. "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19(b)(5). A trial court may consider evidence on the whole record in making its best interests determination. *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). We review the court's best interests determination for clear error. MCR 3.977(K).

The minor child, C. L. Meriweather, was born while respondent was incarcerated, serving a term of 25 to 45 years for multiple convictions of first-degree criminal sexual conduct. The victim was respondent's daughter, the minor child's half-sister, and the abuse occurred repeatedly over a two-year period beginning when she was four years old. Before the present appeal, the termination of respondent's parental rights to three other children had been affirmed by this Court.¹ The evidence in one of the earlier appeals showed that respondent also struck his daughter, the young sexual abuse victim, repeatedly with a belt, threw her against the wall, and

¹ *In re Bell/Meriweather*, unpublished opinion per curiam of the Court of Appeals, issued December 16, 2010 (Docket Nos. 297772/297774); *In re AM*, unpublished opinion per curiam of the Court of Appeals, issued May 27, 2010 (Docket Nos. 293762/293763/293764).

abused her mother in the presence of their children. In another appeal, the evidence established that respondent sexually abused the half-sister of another of his children and physically abused her mother, again in the presence of the children in the home.

Respondent refused to participate in the termination proceedings involving C. L. Meriweather. He signed a release of his rights to participate by speakerphone and to be represented by an attorney.² Despite his refusal to participate in the termination proceedings, respondent now claims that termination is not in the minor child's best interests. It is undisputed that respondent did not have a bond with the child, having been incarcerated since the child was born. Efforts to reunify respondent with the child were not required because he was convicted of criminal sexual conduct in the first degree involving penetration with the child's half-sister. MCL 712A.19a(2)(a); MCL 722.638(1)(a)(ii). The child continued to live with his mother and alternative placement was not necessary.

Respondent erroneously relies on *In re Mason*, 486 Mich 142; 782 NW2d 747 (2010) to support his appeal. In *Mason*, the respondent was not included in the termination proceedings despite his desire to participate while he was incarcerated for convictions of drunk driving and larceny. *Id.* at 147-149. The issues in *Mason* involved protection of the respondent's due process rights and whether the evidence was clear and convincing to terminate the respondent's parental rights based on his incarceration. Here, respondent refused to participate in the termination proceedings. He was incarcerated for criminal sexual conduct involving his daughter. He does not appeal termination of his rights based on whether the evidence justified termination. The trial court was not obligated to keep open the opportunity for respondent to be reunited with his family under the circumstances of this case. The child is entitled to a safe, stable home, free from fear of harm from respondent in the unlikely event respondent is released from prison while the child is still a minor. The trial court did not clearly err when it found that termination is in the best interests of the child.

Affirmed.

/s/ Henry William Saad
/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly

² The trial court nonetheless appointed an attorney to represent respondent.